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09/022,336 02/11/98 JONES

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EXAMINER

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MAPLES, J

ART UNIT

PAPER NUMBER

1745

12

DATE MAILED:

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Best Available Copy

Art Unit: 1745

1. Applicant's arguments relating to the last restriction requirement have all been considered and are deemed persuasive. Accordingly, claims 7-30 and 32-35 are being prosecuted together and have been examined on their merits as outlined below.

Claims 1-6 and 31 are withdrawn from further prosecution without traverse being drawn to a non-elected invention. Applicant did not argue the carving out of this invention so that the election is treated without traverse.

2. Claims 22 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 22, "ceramic vessel" finds no antecedent basis, while "vessel" of claim 24 does not have proper antecedent basis.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 15, 16 and ~~23~~ are rejected under 35 U.S.C. 102(b) as being anticipated by Catylators Limited (CL).

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Reference is made to page 1, lines 16-60 and page 3, lines 9-15 along with all of the drawing figures.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

WT cl. 7/
29 6. Claims ^{§-}13, 15, 22, 24, 26-30, 32 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kreidl et al. (Kreidl) in view of CL.

The only claimed features not shown by Kriedl are the particular vessel encompassing the catalyst, the size of the vessel and for the amount of catalyst present.

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CL sets forth as outlined above a catalyst vessel as claimed. To include in Kreidl the vessel of CL would have been obvious for its improved flame resistant properties.

The amount of catalyst present as well as the specific size of the vessel are deemed obvious matters of design choice to one of ordinary skill in this art of no patentable moment because the same would depend on the use intended. One would arrive at such particulars through routine experimentation not involving inventive concept.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Reference is made to DE 2904842, the English translation thereof, for a VRLA cell having an encapsulated catalyst secured below a pressure relief valve.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John S. Maples whose telephone number is (703) 308-1795. The examiner can normally be reached on Monday-Friday from 6:30 to 4:00. The examiner can also be reached on alternate Wednesdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Maria Nuzzolillo, can be reached on (703) 305-3776. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

JSM/December 18, 1999

John S. Maples
JOHN S. MAPLES
PRIMARY EXAMINER
GROUP 1745